IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 1898 of 2003 and connected petitions

Date of Decision: November 18, 2011

Narender Kumar and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

Present: Mr. Dharmender Singh Rawat, Advocate,
for the petitioners (in CWP Nos. 1898 and 2360 of 2003)

Mr. Lekh Raj Nandan, Assistant Advocate General, Haryana,
for the respondents.

1. To be referred to the Reporters or not?

2. Whether the judgment should be reported in the Digest?

M.M. KUMAR, J.

1. This order shall dispose of a bunch of 9 petitions* as common question of law and facts are involved. The short issue involved in these petitions is whether a promotee employee would be covered by the Assured Career Progression Scheme (ACP Scheme), which has been framed by the respondent State of Haryana, and would be entitled to get 1st and 2nd ACP Scale on completion of 10 and 20 years of regular service. The petitioner(s) have challenged various orders passed by the respondents with the grievance that their pay has been wrongly fixed because the benefit of grant of ACP Scales on completion of 10 and 20 years of regular service has not been granted to them.

2. The factual position of these petitions needs not to be highlighted because the learned counsel for the parties are *ad idem*

that the controversy raised in these petitions is no longer *res integra* as the same has been put to at rest by the judgment of Hon'ble the Supreme Court rendered in the case of **Commissioner and Secretary to Government of Haryana and others v. Ram Sarup Ganda and others, 2006 (12) Scale 440**. It is pertinent to mention that a series of writ petitions were filed before this Court by various Government employees espousing their grievance that they have been denied the benefit of ACP Scheme. It was pointed out that they joined the service as Group 'D' employees and later promoted to Group 'C' posts. In the year 1991, the State of Haryana framed a scheme to grant additional increments to the Government employees based on their length of service i.e. one additional increment on completion of 10 years service and the next increment for those who completed 20 years service. In the year 1994, another scheme was introduced known as the Higher Standard Scale Scheme for Group 'C' and Group 'D' employees on completion of 10 years or more and 20 years or more regular and satisfactory service. With effect from 1.1.1996, the Central Government introduced a Scheme known as the Assured Career Progression' (ACP). The State of Haryana adopted the said Scheme by framing Rules under Article 309 of the Constitution, namely, the Haryana Civil Services (Assured Career Progression) Rules, 1998 (for brevity, 'the ACP Rules'). Those employees had a total service of 20 years and got two up-gradations. Since they had started their career as Group 'D' employees, they were given the benefit of ACP scales, which were applicable to Group 'D' employees. An audit objection was raised that those employees who were initially recruited in Group 'D' post, would not be granted ACP Scales, applicable to Group 'C' posts even if they are promoted to the

cadre of Group 'C' because both the posts constitute a separate class of employees. The Division Bench of this Court allowed the writ petitions holding that the employees were entitled to get the ACP Scales that are applicable to Group 'C' posts. The judgment was rendered in the case of **Suraj Bhan and others v. State of Haryana and others (CWP No. 45 of 1999, decided on 21.9.2000)**.

3. The matter eventually travelled to Hon'ble the Supreme Court. After observing the factual position and Rule 5 and 9 of the ACP Rules, Hon'ble the Supreme Court vide judgment rendered in the case of **Ram Sarup Ganda (supra)** partly allowed the appeals by observing as under:-

> " From the scheme it is clear that the benefit of ACP scale was intended to be given to the Government employees to avoid stagnation and to confer them atleast two promotions/upgradations. Rule 5 quoted above specifically provides that these ACP scales may not be granted to Government employees who have already got atleast two financial upgradations within 20 years of service. This also mentions that the starting point for giving such ACP scales shall be the initial entry into the service.
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> Rule 9 quoted above only says that the senior Government servants, who are direct recruits, are not entitled to get any stepping up in case any anomaly arises regarding the receipt of lesser pay by them. However, the same is not applicable to the respondents herein who joined the service as Group 'D' employees

and later got promotion to Group ‘C’ post by selection. If there is any anomaly to the effect that the senior Government servants are receiving lesser pay than their juniors, who entered the service from a different source of recruitment, certainly such senior Government servants are entitled to steeping up of their pay in order to bring them on par with the salary which is being received by their juniors.

There is no cause in the scheme which prohibits such stepping up of salary which is a common practice applicable to all Government employees in case there is anomaly in the pay structure of the employees.

By the impugned judgment, the High Court has held that the respondents are entitled to get the ACP scales that are applicable to Group “C” post, but the Rules, as such, do not provide for that. The Rules say that if there are already two upgradations, then the concerned employees are not entitled to the benefit of ACP scales. Nevertheless, if ACP scales are higher, they are certainly entitled to the ACP scales at the starting point. The date of giving such ACP scales is the date of entry into the service and though these respondents are entitled to get ACP scales and get fixation of the ACP scales as applicable to Group ‘D’ employees and in case there are anomalies to the effect that they receive lesser pay than their juniors working in the same cadre/post, such senior Government servants are entitled to step up of their salary to get it on par with the salary which is being received by their juniors.

> In the result, all the appeals are partly allowed. The appellants shall revise the pay scales of the respondents. In case of any anomaly, if the employees who, on fixation of ACP scales, are in receipt of lesser salary than their juniors in the same cadre/post, then their salary shall be stepped up accordingly. Revised orders shall be passed within a period of two months of the receipt of the copy of this order by the Government. However, if upon revision of the pay-scales, any employee is liable to refund any amount, the Government shall not insist on refund of such amount. If any employee is entitled to get any amount by way of pay revision, the said amount shall be made available to him within a period of six months from the date of receipt of the copy of this order by the Government.
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> Consequently, the Appeals are partly allowed with no order as to costs."

4. It is, thus, evident that the benefit of ACP scale was intended to be given to the Government employees to avoid stagnation and to confer them at least two promotions/up-gradations. As per Rule 5 of the ACP Rules, ACP scales may not be granted to Government employees who have already got at least two financial up-gradations within 20 years of service. It has further been held that the starting point for giving such ACP scales shall be the initial entry into the service. Another principle which has been laid down is that in the event of any anomaly, if the employees who on fixation of ACP scales are in receipt of lesser salary than their juniors in the same cadre/post, then their salary shall be stepped up accordingly.

5. Learned State counsel has pointed out that for implementing the judgment of Hon'ble the Supreme Court rendered in the case of **Ram Sarup Ganda (supra)**, the State of Haryana has already issued the instructions.

6. In light of the above discussion, these petitions are disposed of in terms of the judgment of Hon'ble the Supreme Court rendered in the case of **Ram Sarup Ganda (supra).**

7. A photocopy of this order be placed on the files of connected cases.

(M.M. KUMAR)
JUDGE

November 18, 2011
PKapoor

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Sr. No.	CWP No.	Title
1.	1898 of 2003	Narender Kumar and others v. State of Haryana and others
2.	2360 of 2003	Om Parkash Batra and others v. State of Haryana and another
3.	18194 of 2004	Prem Lata Rewri v. State of Haryana and another
4.	18203 of 2004	Smt. Darshan Chugh v. State of Haryana and another
5.	18204 of 2004	Smt. Leela Nayyar v. State of Haryana and another
6.	18222 of 2004	Nirmal Sachdeva v. State of Haryana and another
7.	18249 of 2004	Miss. Prem Garg v. State of Haryana and another
8.	18262 of 2004	Kamlesh Bhutani and others v. State of Haryana and another
9.	18421 of 2004	Kulwant Kaushik v. State of Haryana and another

(M.M. KUMAR)
JUDGE

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